

258

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-7595-2022

Date of decision : 06.04.2022

Karan Arora and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Varun Sharma, Advocate and
Ms. Sandhya Gaur, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Raghav Gulati, Advocate for respondent Nos.2 to 28.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.41 dated 18.03.2017 registered under Sections 406/420/120-B of the Indian Penal Code, 1860 at Police Station Jandiala, District Amritsar Rural and all the subsequent proceedings arising therefrom on the basis of compromise.

On 24.02.2022, this Court had passed the following order:-

“This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.41 dated 18.03.2017 registered under Sections 406/420/120-B of the Indian Penal Code, 1860 at Police Station Jandiala, District Amritsar Rural and all the subsequent proceedings arising therefrom on the basis of

compromise.

Learned counsel for the petitioners has submitted that the matter has been compromised and all the persons concerned are party to the compromise.

Notice of motion for 06.04.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Anmol Rattan Singh Sidhu, Sr. Advocate with Mr. Raghav Gulati, Advocate appears on behalf of respondent Nos.2 to 28.

Learned Senior Counsel for respondent Nos.2 to 28 has reiterated the fact that the matter has been compromised and the said compromise has been duly signed by all the concerned parties.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of one month.

Learned counsel for the petitioners has submitted that petitioner Nos.1 to 3 are residing abroad and are not available and thus, made a prayer that the said petitioners be permitted to send their affidavits affirming the compromise and the said affidavits be taken into consideration by the trial Court for the purpose of giving report with respect to compromise.

Learned Senior counsel for respondent Nos.2 to 28 has submitted that respondent Nos.2 to 28 have no objection in case, petitioner Nos.1 to 3 do not appear personally before the trial Court and their duly attested affidavits are taken into consideration by the trial Court for the purpose of giving report with regard to the compromise.

In view of abovesaid consensus arrived at between the parties, petitioner Nos.1 to 3 would send their affidavits duly attested to the trial Court and the trial Court would consider

the said affidavits while submitting the report with respect to the compromise. The personal appearance of petitioner Nos.1 to 3 would not be required. Petitioner No.4 would be submitting the affidavits of petitioner Nos.1 to 3 before the trial Court after receiving the same from petitioner Nos.1 to 3.

Petitioner No.4 who is stated to be in India is however, directed to appear before the trial Court within a period of one month and respondent Nos.2 to 28 would also appear before the trial Court within the said time period.

Learned Senior Counsel for respondent Nos.2 to 28 has further pointed out that in the present case, complaint has been moved by Jatinder Singh @ Nati-respondent No.2 and at page 23 of the paper book, the victims are stated to be several firms and respondent Nos.2 to 28 are the respective representatives of the said firms. It is submitted that most of the firms are sole proprietorships and the said persons would carry the authorization from the sole proprietorship/partnership etc. to show that they are the authorized representatives of the same.

The Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused.*
- 2. Whether any accused is proclaimed offender?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4. Whether the accused persons are involved in any other FIR or not?*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

The trial Court would also permit the firms to get the

statements recorded through respondent Nos.2 to 28 after seeing that they are duly authorized.”

Subsequently, two orders were passed by this Court on 23.03.2022 and 29.03.2022 permitting respondent Nos.10 and 21 respectively to appear through their authorized representative.

In pursuance of the abovesaid orders, a report has been submitted by the Judicial Magistrate Ist Class, Amritsar. The relevant portion of the said report is reproduced hereinbelow:-

“This Court is satisfied that the parties have made an amicable settlement and have recorded their statements in the Court without any pressure, undue influence or coercion.

Following is the requisite information, as directed:-

I. Affidavits of accused/petitioners No.1 namely Karan Arora, son of Sh. Parmod Kumar Arora, resident of House No. 1653, Sector 22 B, Chandigarh, U.T at present resident of Richmond Apartment, Chake Street, Msasani Peninsula, Dar es Salaam, Tanzania having Passport No. Z 3244152, accused/petitioners no. 2 Jasmine Arora, wife of Mr. Karan Arora, resident of House No. 996, Sector 7. Panchkula, Haryana, subsequently shifted to Richmond Apartment, Chake Street, Msasani Peninsula, Dar es Salaam, Tanzania having Passport No. Z 4913638 and accused/petitioners no. 3 Gaurav Arora, son of Sh. Parmod Arora, resident of House No. 181, Akash Ganga Apartment, Pocket 4. Sector 24, Rohini, Delhi at present. Partner Pinnacle Flying Documents Clearing Services L.I.C.. Aspect Tower 1001, Dubai Arab Emirates having Passport No. T4369933, placed on record by accused/petitioner no. 4 namely Amit Kumar, son of Sh. Kishori Lal, resident of 3996, Sector 7 Panchkula,

Haryana, Aadhaar No. 6790 5312 5814 through his statement.

II. As per the statement of SI Manohar Singh No. 155/ASR-R, P.S. Jandiala, total four accused are arrayed in the present case namely Amit Arora son of Kishori Lal, Karan Arora son of Parmod Kumar, Gaurav Arora son of Parmod Kumar and Jasmine Arora wife of Karan Arora.

III. As per the statement of SI Manohar Singh No.155/ASR-R, P.S. Jandiala, accused persons Karan Arora, Gaurav Arora and Jasmine Arora are declared as Proclaimed Persons in the present case.

IV. As per the statement of SI Manohar Singh No.155/ASR-R, P.S. Jandiala, all the total 27 complainants/victims as mentioned above in the present case in question.

Sd/- (Nirmala Devi)

*Judicial Magistrate Ist Class,
Amritsar UID No.PB0411”*

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the accused have been recorded in the case and both have stated that the matter has been compromised and they have no objection in case the FIR is quashed. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure.

Learned counsel for the petitioners has submitted that there are no other cases pending against the petitioners. Learned counsel for the State, as per instructions has stated that these facts are correct.

Learned counsel for respondent Nos.2 to 28 has again reiterated that the matter has been settled and the said compromise is in the interest of

all the persons and would help in bringing out peace and amity between the two parties.

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioner and the complainant. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

As per the Full Bench judgment of this Court in “**Kulwinder Singh and others Vs State of Punjab**”, reported as **2007 (3) RCR (Criminal) 1052**, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court is of the opinion that the same is required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of “**Gian Singh Vs. State of Punjab and another**”, reported as **2012 (4) RCR (Criminal) 543**, had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment is reproduced hereinbelow:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different

from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. XXX---XXX”

In view of what has been discussed hereinabove, the petition is allowed and FIR No.41 dated 18.03.2017 registered under Sections 406/420/120-B of IPC at Police Station Jandiala, District Amritsar Rural and all the subsequent proceedings arising therefrom on the basis of compromise, are ordered to be quashed, qua the petitioners.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

06.04.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No